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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 STATE OF WASHINGTON, et al.,

NO. 2:25-cv-00848

11 PLAINTIFFS,

DECLARATION OF ROBIN
SHISHIDO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

12 v.

13 U.S. DEPARTMENT OF
TRANSPORTATION et al.,

14 DEFENDANTS.
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DECLARATION OF ROBIN
SHISHIDO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION

1 I, Robin Shishido, declare under the penalty of perjury pursuant to 28 U.S.C. § 1746
2 that the foregoing is true and correct:

3 1. I am a resident of the State of Hawai'i. I am over the age of 18 and have
4 personal knowledge of all the facts stated herein, except to those matters stated upon
5 information and belief; as to those matters, I believe them to be true. If called as a witness, I
6 could and would testify competently to the matters set forth below.

7 2. I am currently employed by the Hawai'i Department of Transportation (HDOT)
8 as Deputy Director for Highways.

9 3. As Deputy Director, I am responsible for operations, maintenance, construction
10 and policies for the HDOT Highways.

11 4. HDOT Highway's program is funded with local funds primarily from
12 registration fees, heavy vehicle weight taxes, gas tax and car rental surcharge. These funds are
13 used to pay for Operations and Maintenance and as a local match to federal funds. HDOT
14 relies heavily on federal funds to provide infrastructure improvements to HDOT's Highway
15 system.

16 5. The State of Hawai'i has enacted several legislative measures to manage
17 greenhouse gas (GHG) emissions and address the climate crisis. This legislation aims to
18 achieve zero-emissions transportation, support technological advances, and create a connected
19 network for vehicles (with a priority for public transit), bicycles, and pedestrians to ensure safe
20 and accessible routes for all. A settlement agreement between Earth Justice/Our Children's
21 Trust, the State of Hawai'i Department of Transportation, and the State of Hawai'i, entered
22 into in May 2024, requires the HDOT to prepare and implement a plan for the State to achieve
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1 net-zero transportation related to GHG emissions by 2045, with an interim goal in 2030, and an
 2 ultimate goal of zero transportation GHG emissions. A key strategy to meet these goals is
 3 increasing the adoption of electric vehicles statewide.

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 5 6. Like many states, Hawai‘i expected the National Electric Vehicle Infrastructure
 6 (“NEVI”) Formula Program established in the Infrastructure Investment and Jobs Act (“IIJA”) to
 7 play a critical role in the State’s ability to transition to electrification of vehicles. *See* IIJA,
 8 Pub. L. No. 117-58, 135 Stat. 429 (2021).

9 7. The IIJA allocated \$5 billion over federal fiscal years 2022 - 2026 for the NEVI
 10 Formula Program to fund strategic deployment of electric vehicle (“EV”) charging
 11 infrastructure. The Federal Highway Administration (“FHWA”) administers the NEVI
 12 program. Each state is required to submit a State Electric Vehicle Infrastructure Deployment
 13 Plan (“State Plan”) for each fiscal year describing how the state intends to use the NEVI funds.
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15 8. The IIJA further requires the Secretary of Transportation, within ninety (90)
 16 days of the statute’s enactment and in coordination with the Secretary of Energy, to develop
 17 “guidance for States and localities to strategically deploy electric vehicle charging
 18 infrastructure” consistent with the NEVI Formula Program provisions of the IIJA (“NEVI
 19 Formula Program Guidance”). FHWA issued NEVI Formula Program Guidance on February
 20 10, 2022, and has updated the guidance annually.
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22 9. Hawai‘i prepared and provided to the FHWA its State Plans for fiscal years
 23 2022-2025 describing how it intended to use its share of funds to carry out the NEVI Formula
 24 Program. Each submittal of the plan discussed how the HDOT would meet the NEVI
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1 requirements and implement the program. Each update further refined the schedule of when
2 sites would become operational or were operational.

3 10. The FHWA approved Hawaii's State Plans in letters dated September 27, 2022,
4 October 2, 2023 and November 15, 2024 ("State Plan Approvals"). Each letter explicitly stated,
5 with minor, non-substantive variations, that "[w]ith this approval, Fiscal Year . . . funds are now
6 available to Hawaii for obligation."
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8 11. Based on the State Plan Approvals a total of \$13,914,498 were approved for
9 obligation.

10 12. HDOT has obligated \$11,846,015.52 of NEVI formula funds to date. These
11 funds have been committed in contracts to our consultants for planning, design, construction,
12 operation and maintenance of NEVI compliant chargers.

13 13. On January 20, 2025, President Trump issued an Executive Order ("EO")
14 entitled Unleashing American Energy. Section 7(a) of the EO directs all agencies to
15 "immediately pause disbursement of funds appropriated through" the IIJA, "including but not
16 limited to funds for electric vehicle charging stations made available through the [NEVI]
17 Program."
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19 14. On February 6, 2025, the Hawai'i Department of Transportation received a
20 letter from Emily Biondi, the Associate Administrator for the Office of Planning, Environment
21 and Realty in the FHWA, with the subject "Suspending Approval of State Electric Vehicle
22 Infrastructure Deployment Plans."
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1 15. The February 6 letter informed State Transportation Directors that the new
2 leadership of DOT “has decided to review the policies underlying the implementation of the
3 NEVI Formula Program” and was therefore rescinding NEVI Formula Program Guidance.
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5 16. The February 6 letter further claimed that FHWA “aims to have updated draft
6 NEVI Formula Program Guidance published for public comment in the spring” and that the
7 Agency “will publish updated final NEVI Formula Guidance that responds to the comments
8 received” after the public comment period has closed.

9 17. Finally, the FHWA informed the Hawai‘i Department of Transportation that it
10 would be “immediately suspending the approval of all State Electric Vehicle Infrastructure
11 Deployment plans for all fiscal years” and prohibiting future obligations “under the NEVI
12 Formula Program until the updated final NEVI Formula Program Guidance is issued and new
13 State plans are submitted and approved.”
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15 18. The February 6 letter therefore made clear that Hawai‘i would not have access
16 to the remainder of funds not previously obligated of \$2,068,482.48 which had been made
17 available to it through its State Plan Approvals. FHWA has further given the Hawai‘i
18 Department of Transportation no sense of how it can apply for the remaining \$3,765,866 it
19 expected to receive for FY 2026.
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21 19. The Hawai‘i Department of Transportation relied and acted upon the FHWA’s
22 statutory obligation to provide NEVI formula funding consistent with the IIJA’s requirements.
23 HDOT proceeded with purchasing chargers for eight of its NEVI sites (two sites are already
24 operational) and finalizing design for seven additional sites with the assumption the funds
25 would be available for construction, operations and maintenance. Without the NEVI Formula
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1 Funds, HDOT will need to utilize local funds intended for other projects to complete the
2 remaining NEVI sites or stop all activities that cannot be funded.

3 20. Further delay in releasing the remainder of the NEVI formula funds will
4 negatively impact HDOT. HDOT may not be able to meet its legislative requirements for
5 meeting its clean energy goals and the requirements of the settlement agreement referenced
6 above. In addition, any further delays in implementing the program will result in increased
7 costs due to inflation.
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9 I declare under penalty of perjury under the laws of the United States that, to the best of
10 my knowledge, the foregoing is true and correct.
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12 DATED this 6th day of May, 2025, at Honolulu, Hawai'i.

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14 _____
Robin Shishido